

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

THE APPLICATION OF KEN-GAS OF)	
KENTUCKY, INC. FOR APPROVAL TO)	CASE NO. 10346
CONSTRUCT AND FINANCE A GAS SYSTEM)	
TO SERVE THE CITY OF HYDEN, KENTUCKY)	

O R D E R

On August 11, 1988, Ken-Gas of Kentucky, Inc. ("Ken-Gas") filed an application for a Certificate of Public Convenience and Necessity to authorize construction of a natural gas system to serve the city of Hyden, Kentucky.

Upon review of the application, the Commission notes that several Orders have been issued requesting information related to the proposed construction. Ken-Gas has consistently failed to completely and adequately respond to the requests. For instance, with respect to the proposed method of financing the construction, Ken-Gas first proposed to finance construction through a loan from a commercial bank, then subsequently proposed funding through 20-year tax-exempt bonds and, finally, changed its proposal for financing to utilization of a construction loan. Information of this nature is absolutely necessary to permit an intelligent, informed review of the project proposal in the exercise of the Commission's statutory authority; however, the information provided by Ken-Gas is so indefinite and imprecise that review at this time is impossible. Ken-Gas has failed to provide the

following finalized documents required by 807 KAR 5:001, Sections 8 and 9, 807 KAR 5:022, Section 9, and KRS 278.020(3):

1. Franchise. On September 27, 1988, Ken-Gas filed its articles of incorporation and an ordinance granting a franchise to serve natural gas to the city of Hyden, Kentucky.

On October 6, 1989, Ken-Gas filed articles of incorporation for another company that would take control of the Hyden gas system project. The new company is called Hyden Gas Utility, Inc. ("Hyden Gas"). Ken-Gas stated that the city of Hyden has agreed to a transfer of the franchise from Ken-Gas to Hyden Gas and stated that a new franchise agreement might be granted. Ken-Gas has not yet filed an ordinance to show Hyden Gas has been granted a franchise to operate in the city of Hyden.

2. Financing. On September 27, 1988, Ken-Gas stated in a letter to the Commission that it proposes to finance the construction of the system through a commercial bank for 80 percent of the cost and the other 20 percent to be contributed by Ken-Gas shareholders.

On March 7, 1989, Ken-Gas filed its response to the Commission's November 28, 1989 Order, Question 12, stating that the method of funding the system will be more economical through 20-year tax-exempt bonds at a fixed rate of 10.5 to 11 percent..

On August 11, 1989, Ken-Gas filed a letter from W. N. Estes and Company, Inc., dated July 6, 1989, showing the amortization schedule in the amount of \$600,000 at an interest rate of 11 percent for 20 years.

In response to the Commission's September 14, 1989 Order, Ken-Gas stated that the investment bankers, W. N. Estes and Company, Inc., desire to close the Russell County project¹ before finalizing plans on the Hyden project. However, Ken-Gas stated that it is possible to construct the Hyden system using a construction loan. Ken-Gas has not yet filed an adequate financing plan for the Commission's approval.

3. Gas Supply. On March 21, 1989, Ken-Gas filed a letter from Kentucky West Virginia Gas ("KWV") stating that KWV is ready and able to provide 30 MMcf per year of natural gas to Ken-Gas.

In its response to the Commission's September 14, 1989 Order, Ken-Gas stated that all the gas supplied for the Hyden gas system will come from gas wells now in production in Leslie County that are owned by Equitable Resources Energy Company of Pittsburgh, Pennsylvania.

KWV would be a transporter for the gas at no charge other than the cost of a meter to be located on the pipeline. The gas supply is conditioned to a monthly estimate of gas consumption, and in winter an extra charge could be made. No agreement or contract with the gas supplier has been filed.

4. Engineering and Design. Ken-Gas has filed a typical construction document and material specifications for the transmission and distribution pipelines. Ken-Gas has provided

¹ Case No. 89-125, The Application of Russell County Gas Utility, Inc. for a Certificate of Convenience and Necessity to Construct and Finance a Gas Distribution System in Jamestown and Russell Springs, Kentucky, and for Approval of Rates

construction bids and provided a sketch drawing showing the pipeline's route. However, engineering design and drawings of the system have not been provided.

5. Income Statement. Ken-Gas has failed to file a revised income statement. On October 6, 1989, in response to the Commission's September 14, 1989 Order, Ken-Gas stated that a revised income statement would be filed at a later date. However, the revised income statement has not been filed.

6. Deviation From 807 KAR 5:022, Section 9(17)(a)2: In response to the Commission's September 14, 1989 Order, Ken-Gas requested to install customer service lines at no cost to the customer for the first 2 years only. The Commission has granted other utilities² a similar deviation, but each is perpetual. Ken-Gas has failed to provide information sufficient to support the requested deviation.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that Ken-Gas's application for a Certificate of Public Convenience and Necessity to construct a gas system in the city of Hyden and the related financing are not in compliance with Commission regulations 807

² Case No. 89-041, The Application of Delta Natural Gas Company, Inc. for an Order Authorizing It to Amend Its Tariff and for Authority to Deviate From Commission Rules in Order to Permit Company Ownership of Customer Service Lines; and Case No. 10127, Application of Columbia Gas of Kentucky, Inc. for an Order Authorizing It to Amend Its Tariff and for Authority to Deviate From Commission Regulation 807 KAR 5:022, Section 9(17)(a)1, and 807 KAR 5:022, Section 9(17)(a)2.

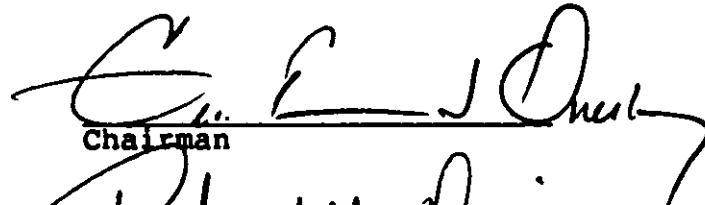
KAR 5:001, Sections 8 and 9, and 807 KAR 5:022, Section 9, and therefore should be denied.


The Commission further finds that if Hyden Gas contemplates taking control and operating the Hyden system project, all information and documentation required by Commission regulations 807 KAR 5:001, Sections 8 and 9, 807 KAR 5:022, and KRS 278.020 should be resubmitted in the name of Hyden Gas as applicant when and if the application is refiled.

IT IS THEREFORE ORDERED that Ken-Gas's application for a Certificate of Public Convenience and Necessity to construct and finance a gas system in the city of Hyden, Kentucky shall be and hereby is dismissed without prejudice.

Done at Frankfort, Kentucky, this 21st day of December, 1989.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman

Commissioner

ATTEST:

Executive Director